

REMARKS

In accordance with the foregoing, claims 1 and 4-5 have been amended. Claims 1, 4-12, 20-21, and 26-30 are pending, and claims 1 and 4-10 are under consideration, which is respectfully requested. However, rejoinder and consideration of withdrawn claims 20 and 29-30 is respectfully requested because they are claims linked to elected claim 1.

I. Amendment to the Claims

Claim 1 has been amended to clarify that the component (B) comprises two forms of N-acyl-diaspartic acid. Formulas (2) and (3) represent these two forms, respectively. Claim 1 has also been amended to clarify that the number of atoms in the R-group of each of components (A), (B), and (C) is the same.

No new features and/or new matter have been added. Accordingly, entry and approval of claims 1 and 4-5 are respectfully requested.

II. Rejection Under 35 U.S.C. § 112, second paragraph

The Office Action rejects claim 1 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action asserts that the way claim 1 "is presented implies that component (B) is a singular component, yet requires two different components as said component." The Office Action further asserts that "in view of the current claim language, it is unclear how a single N-acyl-diaspartic acid or a salt thereof can be represented by two formulae."

As explained above, claim 1 has been amended to clarify that component (B) comprises two sub-components, both of which are forms of N-acyl-diaspartic acid. One form of N-acyl-diaspartic acid is represented by formula (2), the other form of N-acyl-diaspartic acid is represented by formula (3).

Accordingly, the rejection of amended claim 1 under 35 USC § 112, second paragraph has been resolved. Therefore, the rejection of claim 1 should be withdrawn, which is respectfully requested.

The Office Action also rejects claims 4-10 under 35 U.S.C. § 112 because claims 4-10 depend from rejected claim 1. However, the rejection of dependent claims 4-10 under 35 U.S.C. § 112 has been resolved because the rejection of amended claim 1 under 35 U.S.C. § 112 has

been resolved. Therefore, the rejection of claims 4-10 should be withdrawn, which is respectfully requested.

III. Rejection Under 35 U.S.C. § 103

The Office Action rejects claims 1 and 4-10 under 35 U.S.C. § 103 as being obvious over Oshimura et al. (EP 0826766) (hereinafter "Oshimura"). The Office Action asserts that Oshimura relates to a wash composition comprising (A) N-long-chain-acyl dipeptide and (B) N-long-chain-acyl acidic amino acid. The Office Action also asserts that Oshimura describes such wash compositions as further comprising a higher fatty acid (or salt thereof) as a Component (C).

Furthermore, the Office Action asserts that Oshimura teaches an N- (N'-long-chain-acyl-a-aspartyl) aspartic acid as Component (A) on page 3, lines 49 to 54, and an N-long-chain-acyl acidic amino acid derived from an aspartic acid whose acyl group has from 8 to 22 carbon atoms as Component (B) on page 3, lines 54 to 56. The Office Action additionally argues that Oshimura Formulation Example 2 on page 13 discloses a hair shampoo containing amounts of both components (A) and (B).

Moreover, the Office Action believes that page 3, line 39 suggests that the Oshimura compositions may contain a combination of N-acyl-diaspartic acids (or salts). However, Oshimura at page 3, line 39 describes that the "salts may be used either singly or in combination." That is, page 3, line 39 of Oshimura merely describes using the different salts of a N-long-chain-acyl dipeptide either singly or in combination (i.e. M¹ may vary between different molecules of the same dipeptide). Line 39 does not teach or suggest combining N-long-chain-acyl dipeptides.

Regarding the Response to Arguments section, the Office Action interprets claim 1 such that the R groups of components (A), (B), and (C) are not required to be identical. The Office Action states that "[i]t is clear that R in all of said formulae is 'an alkyl group having from 7-23 carbon atoms,' and are not required to be 'identical.'"

On the contrary, amended claim 1 recites that:

...R is defined the same in formulae (1) through (4) such that R has the same number of carbon atoms in components (A), (B) and (C).

In other words, the number of carbon atoms of the R group in formulae (1) through (4) is the same for a given composition according to claim 1. When all of the N-acyl groups in components (A), (B), and (C) have the same alkyl group, the cleansing compositions of the

present application may exhibit advantageous properties including improved foaming and a reduction in a stretched feeling after cleansing. See *Specification at page 12, lines 13-16*. In comparison, Oshimura neither discloses nor suggests that the R groups of the different components in a given composition must be identical.

Accordingly, claim 1 is nonobvious over Oshimura. Claims 4-10 are also nonobvious over Oshimura because claims 4-10 depend from claim 1. The rejection of claims 1 and 4-10 under 35 U.S.C. § 103 should be withdrawn, which is respectfully requested.

IV. Withdrawn Claims

Applicants request rejoinder of withdrawn claims 20 and 29-30 because claims 20 and 29-30 are linked to elected claim 1, respectively. Further, because claims 20 and 29-30 depend from allowable claim 1, claims 20 and 29-30 are allowable over the Oshimura for at least the reasons applied to claim 1.

V. Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: Oct 6 2010

By: 
Mark J. Henry
Registration No. 36,162

1201 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501